

REMARKS

Claims 1-11, 17-23, and 25, all the claims pending in the application, are rejected.

Claims 1, 3 and 6 are amended. Claims 7, 9, 17-23 and 25 are cancelled.

Claim Rejections - 35 USC § 112

Claim 17 is rejected under 35 U.S.C. 112; second paragraph, as being indefinite. This rejection is moot in view of the cancellation of the claim.

Claims 1, 3, 6, 17, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is moot in view of the cancellation of the claims.

Claim Rejections - 35 USC § 101

Claims 17, 18, 20-23 and 25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. This rejection is moot in view of the cancellation of the claims.

Claim Rejections - 35 USC § 103

Claims 1-6, 8, 9, 11, 17-20 and 22-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 20 0310 1 0566 7) in view of Avallone et al. (U.S. 200210147642) and in view of Sloane (U.S. 5,918,211). This rejection is traversed for at least the following reasons.

Claims 7, 9, 17-23 and 25

This rejection is moot in view of the cancellation of the claims.

Claim 1 Amended

Applicants have amended claim 1 so as to emphasize the points of distinction over the cited references to Millikan, Avallone and Sloane. These clear differences constitute more than mere application of commonly known art to existing systems and provide important practical advantages over the existing systems as will be described below. Applicants respectfully submit that their system, as now defined in amended claim 1, is by no means obvious over the disclosures of Millikan, Avallone and Sloane whether considered individually or in combination.

Specific Offers for Individual Detected Consumer

The amendment to claim 1 emphasizes that the system of the present invention requires that a list of specific offers applicable to an individual detected consumer be assembled and supplied to the individual consumer and that the offers specific to that consumer and made individually to that consumer be transmitted to an EPOS terminal so that, when the consumer is identified at the EPOS terminal, purchases made by the consumer are priced at the EPOS terminal in accordance with the offers specific to and previously supplied to that particular consumer.

Since pricing occurs at the EPOS terminal there is no need for the consumer to carry any special electronic or other equipment other than an electronic identification device such as an RFID tag or to keep any record of items selected and the pricing thereof. Thus, the consumer can simply present the items for purchase at the EPOS terminal.

Since offers are assembled so as to be specific to the characteristics of the specific consumer they may include loyalty rewards or other pricing modifications not available to any other consumer in the store at the time or in the particular combination of offers specific to that consumer.

The system therefore allows completely up-to-date rewards to be offered prior to purchase without the consumer being required to obtain any special equipment or to register, as in the system of Sloane, and specifically tailored offers can be offered to a specific consumer which are different to those being offered to other consumers in the store at the time in contrast to the systems of Millikan and Avallone which do not provide this facility.

Millikan

The Examiner states that the offers and advertisements presented by the Millikan invention are specific to the store location and refers to paragraph [0029]. However, as is clear from this paragraph and the remainder of the Millikan specification, Millikan does not envisage (1) assembly of a list of offers specific to one individual identified consumer and (2) transmission of that specific list of offers to that consumer only. Indeed the Millikan message targeting system 16 merely decides on which ones of pre-recorded offers or advertisements will

be transmitted by audio and/or video transmitted openly to consumers as they pass through particular locations in the store, the selection being made by pooling consumer characteristics of consumers in the store at the time. As stated in paragraphs 28 to 30 this naturally necessitates removal of consumer characteristics for consumers that have left the establishment and a message is considered targeted "in that it relates to the deemed characteristics of a majority of consumers currently in the store".

This is all clearly limited to mere selection of pre-recorded standard advertisements or promotional offers available to all consumers and the thrust of Millikan is to achieve targeted advertising of *general offers* rather than assembly and transmission of offers specific to individual detected consumers and to be supplied individually to those consumers prior to purchase.

The Examiner refers to paragraphs [27] and [32] of Millikan, stating that "Millikan discloses a retail transaction terminal, but Millikan does not specifically disclose the common knowledge step of downloading coupon oblique-special offer information to the retail transaction terminals so that a consumer that receives a special offer can actually obtain the offer".

Applicants respectfully submit that the Examiner should not simply refer to a "common knowledge" step without some support. In any event the step described by the Examiner is in no way equivalent to the steps required by amended claim 1 by which an EPOS terminal receives for each individual detected consumer a target file of offers specific to the individual detected consumer so that when a consumer identifies himself or herself at the EPOS terminal purchases made by the consumer are priced at the EPOS terminal in accordance with the offers specific to and previously supplied to that consumer. The specific list of offers is based on data stored in a data base relating to characteristics of the individual detected consumer. It can therefore obtain loyalty rewards or other pricing modifications specific to that consumer rather than being merely part of a special offer downloaded as a matter of course to the retail transaction terminals and there is no need for any separate determination of coupons or other information or recorded data to be carried by the consumer.

Sloane

The Examiner refers to Sloane as teaching the offer of promotions at the appropriate time to the appropriate consumer (column 7 lines 22-26) and immediately recording the discount at a computer-controller which is linked to the point of sale terminal that is additionally programmed to record shopping history and apply carryover promotions to the order (column 8 lines 41-63).

No List of Offers to Individual Consumers

However, Sloane requires the consumer to obtain a portable barcode scanner from a central scanner station by swiping an identification card at the central scanner station (see for example column 2 lines 59-64). Each time that the consumer wishes to consider a particular item for purchase, the barcode scanner must be used to scan the relevant code and to retrieve an appropriate pricing message. The consumer must then decline or accept, and if accepted, the appropriate pricing is stored in the portable scanner. It is then the portable scanner that transports the relevant pricing to the EPOS terminal for implementation on purchase. At no stage in the process is there compiled a list of offers specific to the individual identified consumer which is transmitted to the consumer and at the same time sent to the EPOS terminal so that purchases will be priced at the EPOS terminal in accordance with the specific offers transmitted in a single message to the consumer without the need for ancillary equipment and rather complex processing by the consumer at each time that an item is selected for possible purchase.

Avallone

The Examiner refers to Avallone as disclosing remote and local services with networking capabilities. However, Avallone does not remotely suggest the use of such technology to generate a list of specific offers applicable to a specific detected consumer based on data stored in a data base relating to characteristics of the detected consumer and to supply a message of such specific offers to the detected consumer in combination with sending a target file of those offers to an EPOS terminal to allow purchases made by the consumer to be priced in accordance with offers specific to and previously supplied to the consumer, as recited in revised claim 1.

Combined Prior Art Does NOT Provide Benefits of the Invention

In view of the practical benefits obtained by the applicant's system by which totally up to date offers and rewards can be offered in a message delivered to the consumer immediately prior to purchase and pricing of subsequent purchases in accordance with the specific offers tailored to that particular consumer without the need for ancillary equipment or operations by the consumer it is submitted that the applicant system has considerable inventive merit and cannot be dismissed on a combination of the several references cited by the Examiner.

Claims 2-6, 8 and 11

These claims would be patentable for reasons given for parent claim 1.

Claims 7, 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 2003101105667) in view of Avallone et al. (U.S. 20 0210 1 4 7642) and in view of Sloane (U.S. 5,918,211) and further in view of Official Notice.

As to claims 7 and 21, the rejection is moot in view of the cancellation of the claim.

With regard to claim 10, the claim would be patentable because of its dependence from claim 1. Official Notice does not, and cannot, make up for the deficiencies of the prior art as demonstrated above.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Alan J. Kasper/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860
WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 16, 2009

Alan J. Kasper
Registration No. 25,426